 Revised Edition

THE

LEAGUE OF NATIONS

AND THE

PROTECTION OF MINORITIES

of Race, Language and Religion

Information Section,
League of Nations Secretariat,
GENEVA.

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NOTE

This pamphlet is one of a series issued by the Information Section of the Secretariat of the League of Nations on various aspects of League work. It should not be regarded as an afficial statement engaging the responsibility of the League; for official purposes, reference should be made to the official minutes and reports.

December 1927.

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INTRODUCTION

The protection of racial, linguistic and religious minorities in the sphere of international law is not an innovation introduced by the treaties concluded at the end of the Great War. Diplomatic history affords numerous examples of treaties containing special clauses which aim at providing certain guarantees for groups of the population of a different race, language or religion from that of the majority of the population of the State to which they belong. It was generally left to the signatory States to supervise the application of these guarantees, and they were responsible for taking any diplomatic measures that might be necessary to see that the stipulations of these treaties were respected. In fact, this system conferred on the Great Powers a sort of right to intervene in the internal affairs of certain States — a right which could, on occasion, be used for purely political ends.

It will therefore be readily understood that at a time when the restoration of the international order which had been overthrown by the Great War was the object of negotiations in which the great majority of civilised countries were engaged, and in which it was desired to reduce the possibility of future conflicts to a minimum, an attempt was made to create a system of protecting racial, linguistic and religious minorities which would be free from the risks and drawbacks inseparable from any interference of one State in the domestic concerns of another. Thus it came about that in the new system the League of Nations was entrusted with the task of guaranteeing the stipulations concerning the position of minorities. The States established, restored, or territorially enlarged by the Treaties of Peace, as well as Austria, Bulgaria, Hungary and Turkey, accepted certain special obligations concerning the position of racial, linguistic and religious minorities in their

territories; these undertakings, which were recognised in general as fundamental laws of the States in question, and as obligations of international concern, were placed under the guarantee of the League of Nations (1).

CHAPTER I

GENERAL REVIEW OF THE SYSTEM OF PROTECTION OF MINORITIES BY THE LEAGUE OF NATIONS

A) International instruments containing clauses for the protection of minorities placed under the guarantee of the League of Nations.

The international instruments at present in force containing stipulations for the protection of minorities placed under the guarantee of the League of Nations may be classified as follows :

1. Special treaties signed at Paris during the Peace Conference (2).

(1) Treaty between the Principal Allied and Associated Powers and Poland, signed at Versailles on June 28th, 1919;

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(1) It is perhaps well to mention that, in accordance with these provisions, minorities consist — apart from a clause concerning all the *inhabitants* of a country — of those of its *nationals* who belong to a different race or religion, or speak a different language from the majority of the population. The system therefore does not affect either foreigners living in a country the majority of whose population belongs to a different race, religion or language from their own, or nationals of the country belonging to minorities other than racial, religious or linguistic minorities, such as social or political minorities, etc.

(2) These treaties also contain a number of clauses relating to questions other than the protection of minorities (Consular representation, transit, commerce, etc.).

(2) Treaty between the Principal Allied and Associated Powers and the Kingdom of the Serbs, Croats and Slovenes, signed at St. Germain on September 10th, 1919;

(3) Treaty between the Principal Allied and Associated Powers and Czechoslovakia, signed at St. Germain on September 10th, 1919;

(4) Treaty between the Principal Allied and Associated Powers and Roumania, signed at Paris on December 9th, 1919;

(5) Treaty between the Principal Allied and Associated Powers and Greece, signed at Sèvres on August 10th, 1920 (Articles 1 to 16).

2. Special chapters inserted in the general Treaties of Peace :

(1) Treaty of Peace with Austria, signed at St. Germain-en-Laye on September 10th, 1919 (Part VIII, Section V, Articles 62 to 69);

(2) Treaty of Peace with Bulgaria, signed at Neuilly-sur-Seine on November 27th, 1919 (Part XIII, Section IV, Articles 49 to 57);

(3) Treaty of Peace with Hungary, signed at Trianon on June 4th, 1920 (Part XIII, Section VI, Articles 54 to 60).

(4) Treaty of Peace with Turkey, signed at Lausanne on July 24th, 1923 (Part I, Section III, Articles 37 to 45).

3. Declarations made before the Council of the League of Nations :

(1) Declaration by Albania, dated October 2nd, 1921;

(2) Declaration by Estonia, dated September 17th, 1923;

(3) Declaration by Finland (in respect of the Aaland Islands), dated June 27th, 1921;

(4) Declaration by Latvia, dated July 7th, 1923;

(5) Declaration by Lithuania, dated May 12th, 1922.

4. Conventions :

(1) German-Polish Convention on Upper Silesia, dated May 15th, 1922 (Part III);

(2) Convention concerning the Memel Territory, dated May 8th, 1924 (Article 11, and Articles 26 and 27 of the Statute annexed to the Convention).

A volume containing the provisions of the various international instruments on the protection of minorities was published by the Secretariat of the League of Nations in August, 1927.

THE MINORITIES TREATIES

In pursuance of certain clauses in the general Treaties of Peace, Greece, Poland, Roumania, Czechoslovakia and the Kingdom of the Serbs, Croats and Slovenes agreed to the insertion in special treaties with the Principal Allied and Associated Powers of the provisions which these Powers judged necessary to protect the interests of inhabitants differing from the majority of the population of these States in race, language or religion (1).

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(1) For Greece, see *Treaty of Neuilly*, Article 46; for Poland, *Treaty of Versailles*, Article 93; for Roumania, Czechoslovakia and the Kingdom of the Serbs, Croats and Slovenes, Treaty of *St. Germain*, Articles 60, 57 and 51 respectively. Articles 44 and 47 of the *Treaty of Trianon* confirm the pledges given to Hungary by the Kingdom of the Serbs, Croats and Slovenes and Roumania respectively.

The drafting of these treaties was entrusted to a commission of the Peace Conference, called the Commission on New States, set up on May 1st, 1919. The following countries were represented on this Commission : France (M. Berthelot), the United States (Mr. Miller and Mr. Hudson), Great Britain (Mr. Headlam Morley), and later also Italy (M. de Martino and M. Castoldi) and Japan (M. Adatci).

The first treaty prepared by this Commission was that concluded with Poland. Its text was transmitted to M. Paderewski, the Prime Minister of Poland, with a letter from the President of the Conference, M. Clemenceau. This letter may be said to contain the "considerations" which in the Peace Conference's opinion form the basis of all treaties dealing with minorities. The letter first of all lays stress on the fact that the minorities treaties do not inaugurate any fresh departure. It had for a long time, said M. Clemenceau, been the established procedure of the public law of Europe, when a new State was created, or when an existing State absorbed any considerable amount of territory, for the formal recognition of the situation by the Great Powers to be accompanied by a request on the part of these Powers to the Government thus recognised that it should undertake to apply certain definite principles of government in the form of an agreement possessing an international character.

M. Clemenceau went on to point out that the new minorities treaties nevertheless differed in form from previous conventions relating to similar questions. This change of form was a necessary consequence of an essential part of the new system of international relations inaugurated by the establishment of the League of Nations. Formerly the guarantee for provisions of this nature was vested in the Great Powers. Experience had shown that this arrangement was ineffective in practice, and it was also open to the criticism that it might give the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the States

affected which could be used for purely political purposes. In the new system the guarantee was entrusted to the League of Nations. Furthermore, added M. Clemenceau, a clause had been inserted in the treaties by virtue of which disputes which might arise in connection with the guarantees in question should be submitted to the Permanent Court of International Justice. In this way the differences which might arise were removed from a political to a juridical sphere — a fact which facilitated an impartial decision.

The stipulations relating to the protection of minorities contained in the special minorities treaties and in the Treaties of Peace mentioned in Category 2 were placed under the guarantee of the League of Nations by special resolutions of the Council of the League (1).

THE DECLARATIONS MADE BEFORE THE COUNCIL

On December 15th, 1920, the Assembly, on the Fifth Committee's proposal (2), adopted the following resolution :

> "In the event of Albania, the Baltic, and the Caucasian States being admitted to the League, the Assembly requests that they should take the necessary measures to enforce the principles of the minorities treaties, and that they should arrange with the Council the details required to carry this object into effect".

Of the above States, Albania and Finland were alone admitted during the First Assembly, and questions regarding the

(1) See report to the Sixth Assembly on the work of the Council and the Secretariat (pages 44 and 45).

(2) This question was examined in connection with the admission of new States to the League, which was considered by a Sub-Committee of the Fifth Committee, consisting of Lord Robert Cecil (South Africa), M. Motta (Switzerland), and M. Benes Czechoslovakia).

minorities in these two countries were considered by the Council at several of its meetings.

As early as June 27th, 1921, the Council of the League of Nations, after recognising the sovereignty of Finland over the Aaland Islands, adopted a resolution regarding the guarantees which Finland undertook to grant to the population of the Aaland Islands for the preservation of their language, their culture and their local Swedish traditions. By the terms of this resolution, the Council was to see that the guarantees were duly observed. Finland was to forward to the Council, together with its own observations, any complaints or claims by the Aaland Landsting in regard to the application of these guarantees, and the Council could consult the Permanent Court of International Justice if the question was of a legal nature.

Finland further submitted to the Council a memorandum conveying detailed information as to the rights guaranteed to minorities in Finland by the constitutional law of that country. The Council took note of this information at its meeting of October 2nd.

At the same meeting the Albanian representative signed a declaration containing provisions similar to those in the minorities treaties. This declaration was ratified by Albania on February 17th, 1922, and placed under the guarantee of the League of Nations.

During the Second Assembly, before the admission of Estonia, Latvia and Lithuania to the League, the representatives of these States signed a declaration by which the Estonian, Latvian and Lithuanian Governments accepted the Assembly resolution of December 15th 1920, and stated their readiness to enter into negotiations with the Council for the purpose of determining the scope and the details of the application of their international obligations for the protection of minorities.

The Council, in January, 1922, requested the representative of Brazil to enter into negotiations with the representatives of these States.

On May 12th the representative of Lithuania, M. Sidzikauskas, signed before the Council a declaration containing provisions similar to those in the Polish Minorities Treaty.

Minority questions in Latvia and Estonia have been on the agenda at several meetings of the Council, and the representatives of Estonia and Latvia submitted several memoranda giving the views of their Governments.

At a meeting of the Council on July 7th, 1923, the Latvian delegation made a declaration containing proposals which were accepted by the Council and which the Latvian Government subsequently approved on July 29th, 1923.

This declaration brought to an end the negotiations between the Latvian Government and the Council with regard to the protection of minorities in Latvia. The Council, however, retains the right to re-open the question if it considers that the position of minorities in Latvia does not correspond to the general principles embodied in the Minorities Treaties. The Latvian Government may also ask that the negotiations be taken up again. The declaration, furthermore, contains stipulations as to the procedure to be adopted for petitions addressed to the League concerning the position of minorities in Latvia. This procedure is similar to that established by the Council for countries that have signed the Minorities Treaties. The Latvian Government undertakes in principle to give the Council any information that it may require if a question concerning the position of minorities in Latvia is brought before it by one of its members. In case of differences of opinion on questions of law or fact arising out of the declaration, either the Latvian Government or the Council may request that the difference be brought before the Permanent Court of International Justice for an advisory opinion.

As regards Estonia, the Council, at its meeting of September 17th, 1923, adopted a resolution and accepted proposals contained in a declaration made by the Estonian representative.

According to this resolution, the Council takes note of the information communicated to it by the Estonian representative in his report of August 28th, 1923, concerning the position of racial, linguistic and religious minorities in Estonia. The report states that the protection of minorities in Estonia is at present provided for by the Estonian Constitution in a manner conforming to the general principles embodied in the minorities treaties. The Council, however, retains the right to reconsider the position of minorities in Estonia in case the application of the principles of the minorities treaties as laid down in the recommendation of the League Assembly voted on December 15th, 1920 should no longer be sufficiently safeguarded. For this purpose the Council may ask the Estonian Government to furnish it with any information it may require as to minorities questions that may be brought before it by one of its members. In case of differences of opinion on questions of law or fact arising out of this resolution, recourse may be had to the Permanent Court of International Justice for an advisory opinion.

The declaration subsequently made by the Estonian representative laid down the procedure to be followed with regard to information addressed to the League on the position of minorities. This procedure corresponds to that already described in the case of Latvia.

THE CONVENTIONS

a) *Upper Silesia.* — The decision which was adopted on October 20th, 1921, by the Conference of Ambassadors in

conformity with the opinion expressed by the Council of the League, lays down :

(1) That the Polish Minorities Treaty of June 28th, 1919, is applicable to the Polish portion of Upper Silesia;

(2) That considerations of equity, as well as the maintenance of the economic life of Upper Silesia, require that the German Government should accept similar provisions, at least for a provisional period of 15 years, as regards the German portion of Upper Silesia;

(3) That the provisions of the convention to be concluded between the German and Polish Governments in this connection should constitute obligations of international concern both for Germany and for Poland, and should be placed under the guarantee of the League of Nations in the same manner as those of the Treaty of June 28th, 1919.

On the basis of this decision, negotiations between Germany and Poland were begun at Beuthen in December, 1921, and were resumed at Geneva on February 15th, 1922.

The results of these negotiations were embodied in Part III (Articles 64-158) of the German-Polish Convention signed at Geneva on May 15th, 1922.

The first division of this part of the Convention contains a synoptic table, setting out in one column those articles of the Polish Minorities Treaty which Poland undertakes to apply in the Polish portion of Upper Silesia, and in another column parallel engagements entered into by Germany.

However, in order that the protection of minorities in the plebiscite portions of the territory might be based upon principles of equitable reciprocity, and in order that the special conditions arising out of the provisional regime might receive due consideration, the contracting parties agreed to observe, for a period of 15 years, certain more detailed provisions concerning civil and political rights, religion, private education, public elementary education, vocational training and extension

classes, secondary and higher education, the official language of administration, and the language to be employed in legal proceedings.

The Convention also deals with the right of petition and methods of appeal. A Minorities Office is to be set up in each portion of the plebiscite territory. Persons belonging to a minority may, after having filed a complaint with the highest administrative authority, submit a petition to the Minorities Office of their State for consideration. If the Minorities Office does not succeed in obtaining satisfaction for the petitioners, it will transmit the petition, together with any comments it may wish to make, to the President of the Mixed Commission for his opinion. The President will give the members of the Mixed Commission an opportunity to express their views (1). The President will then make known his opinion to the Minorities Office, which will communicate it to the proper administrative authorities. In case the petitioners are not satisfied with the findings of the administrative authority, they may appeal to the Council of the League of Nations.

Such appeals must be addressed to the Minorities Office, which will see that they are forwarded to the Council by the Government.

The Council is also competent to give a decision concerning any individual or collective petition addressed to it directly by persons belonging to a minority.

Memel. — The Convention concerning the Memel Territory contains only two provisions relating to the protection of Minorities. The first (Article 11 of the Convention and Article 26 of the Statute annexed to it) stipulates that the Lithuanian declaration of May 12th, 1922, applies to minorities

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(1) The Mixed Commission is composed of two Germans and two Poles, with a President of some other nationality.

within the Memel Territory, with the exception of paragraph 4 of Article 4, relating to the use of the minority languages in the law courts. This exceptions is due to the fact that, in accordance with the second stipulation (Article 27 of the Statute) the Lithuanian and the German languages are recognised on the same footing as official languages in the Memel Territory (1).

B) Exceptional character of the system of the protection of Minorities by the League of Nations

The list of existing international instruments shows the exceptional character of the system of protection of Minorities by the League of Nations. The creators of the system had no intention of establishing a general jurisprudence applicable wherever racial, linguistic or religious minorities existed. They simply aimed at facilitating the solution of the problems which might arise from the existence of racial, linguistic or religious minorities in certain countries in which there was reason to suppose that, owing to special circumstances, these problems might present particular difficulties.

Nevertheless, the idea of a general system for the protection of minorities, applicable in every country without distinction, has been examined and discussed by the League of Nations.

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(1) Certain States have concluded special conventions concerning the position of their respective minorities, but these have not been placed under the guarantee of the League of Nations, eg. the *Treaty of Brünn* between Austria and Czechoslovakia, dated June 7th, 1920; the Treaty of April 23rd, 1925, between Poland and Czechoslovakia, etc. Mention may also be made of Article 33 of the Convention of November 9th, 1920, between Poland and the Free City of Danzig, under which Danzig undertakes to apply to minorities provisions similar to those which are applied by Poland in execution of the *Polish Minorities Treaty*. The Agreement of October 24th, 1921, between Danzig and Poland, in execution of the Convention of November 9th, 1920, deals in Articles 225 & 226 with the question of language, and in Article 227 & annex with the question of education in connection with the Polish Minority at Danzig.

Even while the Minorities Treaties were being drafted at the Peace Conference, several of the States concerned raised objections. At the Plenary Meeting of the Conference on May 31st, 1919, the representatives of these countries stated that they were prepared to accept obligations regarding the protection of minorities if all the States Members of the League accepted similar obligations (1).

Moreover, the Polish Delegation, in a memorandum submitted to the Peace Conference, pointed out that the Treaty of Versailles contained no stipulations concerning the protection of minorities in Germany similar to those which Poland was asked to accept concerning the protection of German minorities in Poland. Germany, in the chapter of her counter-proposals to the peace terms which concerned the League of Nations, demanded the general protection of minorities, and in particular the protection of the German minorities in the territories ceded by her; she declared her willingness to treat minorities in her own territory according to the same principles.

At the meeting of May 31st, 1919, M. Clemenceau and President Wilson replied to these objections. Their arguments will be found in M. Clemenceau's covering letter to M. Paderewski quoted above. Furthermore, the Allies, on their reply of June 16th, 1919, to the German counter-proposals, called attention to the guarantees which would be given by the Minorities Treaties to the German minorities in the ceded territories, and noted the German Delegation's declaration that Germany was prepared to treat minorities in her territory according to the same principles.

The tendency towards the generalisation of the system of the protection of Minorities became evident once more at the Third Session of the Assembly of the League of Nations (1922). In the Sixth Committee of this Assembly the Latvian representative, Dr Walters put forward the idea of a minorities

(1) See TEMPERLEY, *History of the Peace Conference*, Vol. V, p. 129.

law established on the same basis for all States. The Finnish representative, M. Erich, proposed that the Assembly should ask the Council to set up a Commission to study the question of the protection of Minorities in general. The Estonian representative supported this proposal, which, however, was subsequently withdrawn. Finally, the Sixth Committee submitted to the Assembly a number of resolutions, which the Assembly adopted at its meeting of September 21st, 1922. The fourth of these resolutions was as follows :

> "The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the treaties and by the regular action of the Council"

Three years later, in 1925, at the Sixth Session of the Assembly (meeting of September 14th, 1925), the Lithuanian delegation submitted the following proposal :

> "The Lithuanian delegation proposes that the Sixth Assembly of the League should set up a special committee to prepare a draft convention to include all the States Members of the League of Nations and setting forth their common rights and duties in regard to minorities."

This proposal was discussed by the Sixth Committee of the Assembly at its meeting of September 16th, 1925. The majority of the speakers who took part in the debate were opposed to the Lithuanian view; a few wished to reserve their opinion; and the Roumanian and Polish representatives declared themselves in favour of the proposal in principle. The Lithuanian delegate having finally withdrawn his proposal, the Assembly

decided, on September 22nd, to inform the Council of the discussion which had taken place in the Sixth Committee in this connection. The Council, at its meeting of December 9th, 1925, merely took note of the Assembly's resolution.

At the same meeting of the Council, M. de Mello Franco, (Brazil), as rapporteur on minorities questions, stated his personal views, in the course of which he pronounced definitely against generalising the system for the protection of minorities. In M. de Mello Franco's opinion, "the mere co-existence of groups of persons forming collective entities, racially different, in the territory and under the jurisdiction of a State, is not sufficient to create the obligation to recognise the existence in that State, side by side with the majority of its population, of a minority requiring a protection entrusted to the League of Nations. In order that a minority, according to the meaning of the present treaties, should exist, it must be the product of struggles, going back for centuries, or perhaps for shorter periods, between certain nationalities, and of the transference of certain territories from one sovereignty to another through successive historic phases" As these factors were not constant in all the States Members of the League of Nations, it would not be possible, in M. de Mello Franco's opinion, for all these States to adhere to a general convention such as that proposed by the Lithuanian representative.

CHAPTER II

RIGHTS GUARANTEED TO MINORITIES BY TREATIES, AND THE DUTIES OF MINORITIES TOWARDS THE STATES OF WHICH THEY FORM PART

Various treaties guaranteed to racial, linguistic or religious minorities certain rights, which may be grouped under the following headings; (*a*) a number of general rights more or

less common to all minorities in countries which have accepted the system of the protection of minorities by the League; (*b*) certain special rights guaranteed to minorities situated in more or less exceptional circumstances.

I. General Rights

1. Right to nationality.

The various Minorities Treaties contain special provisions with regard to changes in nationality as a result of territorial redistribution (1). The principle contained in these provisions is that the nationality of a newly-created or enlarged country may be acquired : (*a*) by the fact that a person was habitually resident in the transferred territory, or had rights of citizenship (or "pertinenza") there at the time of the coming into force of the Treaty (2), and (*b*) by the fact that a person was born in the territory of parents habitually resident there, even though at the date of the coming into force of the Treaty the persons concerned were not themselves habitually resident there (3).

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(1) Articles 30 to 36 of the Treaty of Peace with Turkey, signed at Lausanne on July 24 th, 1923, which refer to nationality have not been placed under the guarantee of the League.

(2) In the case of Poland, the Serb-Croat-Slovene Kingdom and Czechoslovakia, this provision must be interpreted in conjunction with certain provisions of the *Treaties of Versailles* (Article 91, § 2), *of St. Germain* (Article 76), *and Trianon* (Article 62), according to which persons who established their place of residence or acquired rights of citizenship in various circumstances subsequent to a certain date (January 1st, 1908 in the case of Poland, and January 1st, 1910, in the case of the Kingdom of the Serbs, Croats and Slovenes and Czechoslovakia) do not acquire the nationality of these States without an authorisation from the latter.

(3) In its Advisory Opinion, Number 7, of September 15th, 1923, the Permanent Court of International Justice interpreted this provision, with regard to the *Polish Treaty*, as referring only to the habitual residence of the parents at the date of birth of the persons concerned.

The various treaties also lay down that all persons born in the territory of one of these States and not born nationals of another State shall *ipso facto* become nationals of such State.

Finally, the Minorities Treaties contain certain provisions with regard to the right of option. Persons over 18 years of age who, as a result of territorial changes and the operation of provisions regarding nationality, became nationals of one of the new or territorially enlarged States, were allowed to opt for any other nationality which was open to them. The period fixed in the Minorities and Peace Treaties for the exercise of this right of option was two years as from the date of the coming into force of these Treaties. Persons who exercised this right were, within the succeeding twelve months after option, to leave the territory of the State whose nationality they had lost. The Treaties authorised them to retain their immovable property in the territory of the State which they had left and to carry with them their movable property of every description, no export duties being imposed upon them in connection with the removal of such property. The Minorities Treaties contain a special clause under which the States concerned undertake to place no hindrance of any sort in the way of the exercise of this right of option.

2. Right to life, personal liberty and freedom of worship

Under the Minorities Treaties, the various States undertake to assure to all their inhabitants full and complete protection of life and liberty; they recognise that their inhabitants shall be entitled to the free exercise, whether public or private, of any creed, religion or belief whose practices are not inconsistent with public order or public morals.

These rights therefore have been established not merely on behalf of citizens belonging to a minority, but for the benefit of all the inhabitants of the country. Nevertheless, as will be explained later (1) the League's guarantee applies only in the case of persons belonging to racial, linguistic or religious minorities.

3. Right to equal treatment

The various Minorities Treaties embody the following general principles : *a*) equality of all nationals of the same country before the law, b) equality in the matter of civil and political rights, and; *c*) equality of treatment and security in law and in fact (2).

The treaties also lay down that differences of race, language or religion shall not prejudice any national of the country in the matter of admission to public employments, functions and honours or the exercise of professions and industries; that nationals belonging to minorities shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language, and to exercise their religion freely therein.

4. Rights with regard to the use of the minority language

These rights as defined in the Treaties take the form of three obligations accepted by the States concerned, namely :

a) The obligation to impose no restriction on the free

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(1) See page 27.

(2) In the arguments in support of its Advisory Opinion No.6 with regard to the question of settlers of German origin in Poland, the Permanent Court of International Justice interpreted these provisions on equality as follows :

The facts that no racial discrimination appears in the text of the law of July 14th, 1920, and that in a few instances the law applies to non-German Polish nationals who took over property as purchasers from original holders of German race, make no substantial difference... There must be equality in fact as well as ostensible legal equality in the sense of the absence of discrimination in the words of the law.

use by any national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

b) The obligation to grant nationals speaking a language other than the official language adequate facilities for the use of their language, either orally or in writing, before the Courts.

c) The obligation to grant adequate facilities in towns and districts where there is a considerable proportion of nationals speaking a language other than the official language of the State, to ensure that in the primary schools (1) the instruction shall be given to the children of such nationals through the medium of their own language.

This provision does not, however, prevent the government from making the teaching of the official language obligatory in these schools.

5. Right to obtain a share of public funds devoted to educational, religious or charitable purposes

The treaties also lay down that in towns and districts where there is a considerable proportion of nationals of the country belonging to racial, religious or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budget, for educational, religious or charitable purposes.

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(1) It should be observed that in the *Czechoslovak treaty* there is no mention of "primary schools", the word employed being "instruction" in general without any limitation.

II. Special Rights

1. PROVISION WITH REGARD TO JEWISH MINORITIES

(a) *Greece.* — In towns and districts where there is a considerable proportion of Greek nationals of the Jewish religion the Government undertakes to respect their Sabbath. This provision does not, however, exempt Jews from such obligations as shall be imposed upon all other Greek nationals for the necessary purposes of military service, national defence or the preservation of public order (Article 10 of the Greek Minorities Treaty).

(b) *Lithuania and Poland.* — The Lithuanian declaration (Article 7) and the Polish Treaty (Article 10) provide for the constitution of Educational Committees appointed by the Jewish communities with a view to providing under the general control of the State for the distribution of the proportional share of public funds allocated to Jewish schools and for the organisation and management of these schools. Respect for the Sabbath is also stipulated. It is also laid down that no election shall be held on a Saturday. This provision, however, does not exempt Jews from such obligations as shall be imposed upon all other nationals for the necessary purposes of military service, national defence or the preservation of public order. (Article 8 of the Lithuanian Declaration and Article 11 of the Polish Treaty).

(c) *Roumania* recognises as Roumanian nationals *ipso facto* and without the requirement of any formality Jews inhabiting any Roumanian territory, who do not possess another nationality (Article 7 of the Roumanian Minorities Treaty).

2. VALACHS OF PINDUS

Greece has agreed to accord to the communities of the Valachs of Pindus local autonomy under the control of the

Greek State, in regard to religious, charitable or scholastic matters. (Article 12 of the Greek Minorities Treaty).

3. MOUNT ATHOS

Greece has agreed to recognise and maintain the traditional rights and liberties enjoyed by the non-Greek monastic communities of Mount Athos under Article 62 of the Treaty of Berlin (1) (Article 13 of the Greek Minorities Treaty).

4. MOSLEMS IN ALBANIA, GREECE AND THE SERB-CROAT-SLOVENE KINGDOM

The Greek Treaty (Article 14), the Treaty with the Kingdom of the Serbs, Croats and Slovenes (Article 10) and the Albanian Declaration (Articles 2 and 3) lay down that all necessary measures shall be taken to enable questions of family law and personal status to be regulated in accordance with Moslem usage. At the same time these treaties guarantee the protection of mosques, cemeteries and other religious establishments.

5. CZECKLER AND SAXON COMMUNITIES IN TRANSYLVANIA

Roumania has agreed to grant these communities local autonomy in regard to religious and scholastic matters, subject to the control of the Roumanian State (Article 11 of the Roumanian Minorities Treaty).

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(1) The second paragraph of this article of the Treaty of Berlin reads as follows : "The monks of Mount Athos, of whatever country they may be natives, shall be maintained in their former possessions and advantages, and shall enjoy, without any exception, complete equality of rights and prerogatives".

6. RUTHENE TERRITORY SOUTH OF THE CARPATHIANS

Czechoslovakia has agreed to constitute this territory as an autonomous unit within the Czechoslovak State, and to accord to it the fullest degree of self-government compatible with the unity of that State. This regime is, according to the provisions of the Treaty, to include a special Diet having powers of legislation in all linguistic, scholastic and religious questions, in matters of local administration, and in other questions which the laws of the Czechoslovak State may assign to it. The Governor of this territory must be appointed by the President of the Republic and its officials must be chosen as far as possible from the inhabitants of the territory (Articles 10 to 13 of the Czechoslovak Minorities Treaty).

III. The duties of minorities

The treaties contain no stipulations regarding the "duties" of minorities towards the States of which they form part.

The Third Ordinary Assembly of the League, however, in 1922, when defining certain points of the procedure to be followed in settling minority questions, also adopted the two following resolutions regarding the "duties" of minorities :

> "While the Assembly recognises the primary right of the Minorities to be protected by the League from oppression, it also emphasies the duty incumbent upon persons belonging to racial, religious or linguistic minorities to cooperate as loyal fellow-citizens with the nations to which they now belong".
>
> "The Secretariat of the League, which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out, should

not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to racial, linguistic, or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire".

CHAPTER III

THE LEAGUE OF NATIONS GUARANTEE AND PROCEDURE

I. The League of Nations guarantee

All the Minorities Treaties, and also the chapters of the Treaties of Peace with Austria, Bulgaria, Hungary and Turkey (1) which relate to minorities, contain a clause establishing a League of Nations guarantee for such of their provisions as affect minorities. This clause reads as follows :

"Poland (or Austria, Czechoslovakia, etc.) agrees that the stipulations in the foregoing Articles, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the

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(1) The Albanian and Lithuanian Declarations contain the same provision. As regards Esthonia and Latvia, see page 12-3.

British Empire, France, Italy and Japan (1) hereby agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations.

"Poland (or Austria, Czechoslovakia, etc.) agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

"Poland (or Austria, Czechoslovakia, etc.) further agrees that any difference of opinion as to questions of law or fact arising out of these Articles between the ... Government and any one of the Principal Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations (2), shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The... Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant".

The first paragraph of these provisions confines the League's guarantee to "persons belonging to racial, religious or linguistic minorities". The significance of this restriction will be realised when we remember that the Minorities Treaties

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(1) The Treaties of Peace with Austria, Bulgaria and Hungary read as follows : "The Allied and Associated Powers represented on the Council...". The United States of America are not mentioned in the Treaty of Lausanne.

(2) The Treaty of Lausanne reads as follows here : "... and any one of the other Signatory Powers or any other Power, a member of the Council the League of Nations... (Article 44".

establish certain very important rights, such as the right to protection of life and liberty and certain rights as to equality, and this not only for the benefit of minorities but for that of all nationals, and indeed all the inhabitants of the country (1). If, therefore, a State which had subscribed to these undertakings infringed any provision establishing one of these rights, to the prejudice of a person not belonging to a minority, such an act would not bring the League's guarantee into play.

According to the second paragraph, the Members of the Council (in other words certain Governments) alone have the right to bring to the attention of the Council any infraction or danger of infraction of any of the provisions relating to minorities. Accordingly, the report of the Italian representative, M. Tittoni, adopted by the Council on October 22nd, 1920, mentions the sharp distinction between the right of the Members of the Council, (that is to say, certain Governments) to bring to the attention of the Council any infraction or danger of infraction of the terms of the treaties, and the right of the minorities themselves, or of States not represented on the Council, to bring such infractions or dangers of infraction to the League's notice (2). The directing of the Council's attention by one or more of its Members to an infraction or danger of infraction is a judicial act which has the effect of bringing the question officially to the Council's notice, whereas a communication by which an infraction or danger of infraction is brought to the League's notice otherwise than by a Member of the Council merely constitutes a petition or report and cannot in itself have the effect of officially bringing the matter before the Council.

The right the Treaties thus establish, according to which Members of the Council alone can notify the Council of cases of infraction of the Minorities Treaties, has on a number of

(1) See previous chapter, page 21.
(2) See paragraph 2 of the present chapter.

occasions given rise to discussion and controversy. Thus, at the time of the negotiations which led to the Albanian Declaration regarding the protection of minorities, the Greek Government asked that a clause should be inserted granting it the right to bring to the notice of the Council any infraction or danger of infraction of the obligations which Albania was about to assume. The Council thought that there was no occasion to insert such a clause, as it would have constituted an exception to the general principles adopted in all the Minorities Treaties (1). In 1925 Count Apponyi, the Hungarian Representative at the Sixth Session of the Assembly, maintained that it ought to be possible for the Council to be notified directly, by means of petitions from certain sources — from supreme ecclesiatical organisations or the cultural or economic institutions of the different countries (2). M. de Mello Franco (Brazil), discussing this question in the personal statement which he made to the Council on December 9th, 1925, drew attention to the practical difficulties to which such a procedure would give rise, and also asserted that it was incompatible with the letter of the Treaties in force, by which even States which are Members of the League but have no seat on the Council have no power to bring to the latter's notice cases of infraction or danger of infraction of the terms of the Minorities Treaties.

The second paragraph of the provisions concerning the League of Nations guarantee further lays down that when once a Minorities question has been brought before it, the Council may "thereupon take such action and give such direction as it may deem proper and effective in the circumstances".

The extremely general character of this wording and the wide powers it confers upon the Council will at once be noticed, as also the fact that no indication is given as to the procedure

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(1) See Minutes of the 14th Session of the Council (September-October 1921 pages 115 and 162.
(2) See Records of the 6th Assembly (plenary meetings), page 73.

to be followed by the Council in the settlement of Minorities questions (1). The only rule of procedure applicable to this paragraph is that provided in Article 4 of the Covenant of the League, which lays down that any Member of the League not represented on the Council shall be invited to send a Representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member.

In practice the Council has always felt that it should act as an organ of conciliation in these matters, and accordingly all the minorities questions with which it has had to deal have been settled by agreement with the Governments concerned. In two cases (the questions of settlers of German race in Poland and the acquisition of Polish nationality), the Council asked the Permanent Court of International Justice for an advisory opinion on certain points of law (2).

The third paragraph of the provisions relating to the League of Nations guarantee deals with the reference of minorities questions to the Permanent Court of International Justice. M. Clemenceau himself, in his covering letter to the Polish Minorities Treaty (3) emphasised the importance of this clause

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(1) The Report submitted by the Sixth Committee to the Third Assembly (1922 mentions an observation by Professor Gilbert Murray (South Africa) to the effect that in certain localities of mixed population, where conflicts were frequent and serious, order had frequently been maintained and tranquillity restored by the mere presence of consuls or other representatives of foreign Governments who could impartially report on events and bring to bear the influence of a wider public opinion. Professor Gilbert Murray also observed that cases might arise in which the presence of such a representative of the League might have an even more beneficient effect, in view of the disinterestedness and the moral prestige possessed by the League, and suggested that the Council might well consider the desirability in suitable cases of employing such representatives, with the consent of the Government concerned, to allay public excitement and gradually restore tranquillity in disturbed districts. The Committee felt the force of these observations and placed them on record, but, considering the variety of possible contingencies and the wide discretion in the hands of the Council for meeting them, thought best not to embody the proposals in a definite resolution.

(2) See Chapter IV.

(3) See page 9.

whereby, as he said, "differences which may arise will be removed from the political sphere and placed in the hands of a judicial body". Acting in the spirit of this declaration the Third Assembly, in its Resolution II of September 21st, 1922, recommended that the Members of the Council should appeal without unnecessary delay to the Permanent Court of International Justice for a decision in case of a difference of opinion with the Governments concerned as to questions of law or fact relating to the application of the Minorities Treaties.

II. Procedure

The Council did not consider it necessary to institute a special procedure for the examination of minorities questions brought before it by any of its Members, but laid down such procedure for petitions and communications in regard to the protection of minorities addressed to the League but not sponsoned by any of the Members of the Council.

This procedure provides machinery within the framework of the Treaties, enabling minorities to appeal to the League by means of petitions, and it also ensures consideration of these petitions by a suitable body.

The Treaties merely refer to the duty incumbent upon Members of the Council of seeing that the clauses provided for the benefit of minorities are duly observed, but the Members of the Council realised, even at their very first meetings, that, however desirous they might be of observing the spirit of the Minorities Treaties, they would find it very difficult in pratice to keep themselves directly informed as to how these Treaties were being applied. Moreover, it was in some ways undesirable that minorities should apply direct to Members of the Council individually; appeals of this kind would have the same disadvantages as the old system of protection of minorities by the intervention of the great Powers which the

League of Nations guarantee had been specifically intended to obviate. The direct appeal of minorities to a foreign Power would have the further disadvantage that it might be interpreted by the Government under which the minorities were placed as an act of disloyalty on their part. It was in order to obviate these difficulties that the Council of the League established its procedure for minorities as the best method of rendering effective the protection guaranteed to minorities by the League.

The Council was also anxious to give minorities a guarantee that their petitions would receive serious consideration; hence the institution of the "Minorities Committee".

The system of procedure as it exists to-day was not established all at once; it is the outcome of long experience and a series of adaptations. It is to be found in a number of Council resolutions which supplement or rectify each other, namely the report of the Italian representative and the Council resolutions of October 22nd and 25th, 1920, and the resolutions of June 27th, 1921, September 5th, 1923, and June 10th, 1925.

The basic idea underlying the procedure thus instituted is that petitions are intended purely for purposes of *information*. The Council has carefully eliminated anything that might lead to procedure in which the respective cases of the minority and of the Government concerned would be heard as if they were two parties to a lawsuit, because it considered that such a situation was incompatible with the ideas and principles underlying the present organisation of States.

Accordingly the Secretary-General in principle merely acknowledges the receipt of a petition, and does not keep the petitioner informed as to what is done with it (1). The position of the petitioner in this procedure has frequently given rise to controversy. Reference may be made, for instance

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(1) On this subject see the memorandum of the Secretary-General, approved by the Council on June 10 th, 1926. (Official Journal, July, 1926, pages 878 and 986).

to the speech of the Hungarian representative, Count Apponyi, at the Sixth Session of the Assembly (September 14th, 1925). On that occasion Count Apponyi expressed himself definitely in favour of a procedure in which both parties, and therefore the representatives of the petitioners, would have an opportunity of presenting their case. In reply to this, M. de Mello Franco (Brazil) said in his personal statement to the Council dated on December 9th, 1925, that in his opinion such a conception "would give rise to dangers which would threaten the moral ends towards which the system of protection instituted by the Minorities Treaties is tending".

An analysis is given below of the various Council resolutions laying down the procedure for minorities' petitions (1).

I. ACCEPTANCE OF PETITIONS

As soon as a petition regarding the protection of minorities is received by the League Secretariat it is submitted to a preliminary examination by the competent section. The object of this examination is to decide whether the petition can be accepted and the necessary procedure applied to it, or whether it should be declared inadmissible and accordingly rejected.

It is the Secretary-General who has to decide whether a petition can be accepted or not. The Government to which the petition refers may, however, object to this decision, in which case the question must be submitted to the acting President of the Council, who may appoint two other Members of the Council to assist him in the consideration of the matter. Lastly, if the State concerned so requests, this question of procedure may be placed on the Council's agenda (Council resolution of September 5th, 1923).

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(1) Resolutions of October 22nd and 25th, 1920, June 27th, 1921, September 5th 1923, June 10th, 1925.

The conditions which a petition must fulfil in order to be accepted were laid down by the Council in its Resolution of September 5th, 1923. They are as follows :

1. *Origin of the Petition.* — The only condition required is that the petition must not emanate from an anonymous or unauthenticated source.

2. *Form of Petitions.* — Petitions must not be worded in violent language.

3. *Contents of Petitions.* — As regards their contents petitions *a*) must have in view the protection of minorities in accordance with the treaties; *b*) in particular, must not be submitted in the form of a request for the severance of political relations between the minority in question and the State of which it forms a part and *c*) must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure.

2. PRELIMINARY COMMUNICATION OF PETITIONS TO THE GOVERNMENT CONCERNED

Originally (see Report of M. Tittoni, October 22nd, 1920) the Secretary-General, if he considered that a petition could be accepted, used to communicate it without comment to the members of the Council for information.

The State concerned, if a Member of the League, was informed simultaneously with the Council as to the subject of the petition, it being a rule that every document communicated to the Members of the Council for information is communicated immediately to all Members of the League. In this way the State concerned had an opportunity of submitting

to the Members of the Council such observations as it thought desirable to make.

Certain Governments, however, raised objections to this practice and proposed amendments to the procedure. On the basis of their proposals, the Council, by its Resolution of June 27th, 1921, modified the procedure so that all petitions concerning the protection of minorities, under the provisions of the Treaties, from petitioners other than Members of the League, were communicated to the State concerned before being brought to the notice of the Members of the League. That State had a time-limit of three weeks within which to inform the Secretariat whether it intended to make any comments or not. If its reply were in the affirmative, it had a total period of two months in which to submit its observations, which would be communicated, together with the petition, to the Members of the Council and to the Members of the League.

This procedure is still in force for the preliminary communication of petitions to the Governments concerned, but, as will be seen later, it has been modified as regards the communication of petitions to all the Members of the League.

There are, however, two exceptions to the above-mentioned rule. In both cases the petition is not communicated in advance to the Government concerned but is sent simultaneously to that Government and to the Members of the Council. The first of these exceptions refers to "exceptional and extremely urgent" cases. In such cases the Secretary-General, before communicating the petition to the Members of the Council, need only inform the representative of the State concerned accredited to the League Secretariat. The question whether a case is of an exceptional nature or extremely urgent is left to the discretion of the Secretary-General. The second exception refers to petitions from a Government which is a Member of the League. As it was decided to communicate petitions in advance to the Government concerned only in the case of petitions "from petitioners other than Members

of the League", it must be assumed that the original procedure remains in force as far as Members themselves are concerned.

The Council, in its Resolution of September 5th, 1923, authorised the member of the Council acting as President to extend, at the request of the Government concerned, the period of two months within which that Government must send in its observations.

3. COMMUNICATION OF PETITIONS TO THE MEMBERS OF THE COUNCIL

M. Tittoni's report explicitly provided that petitions should be sent by the Secretary-General to the Members of the Council without comment. It was careful to add, however, that this communication of petitions did not constitute a juridicial act, because the Council did not become competent to deal with a question unless one of its Members notified it that the subject of the petition constituted an infraction or danger of infraction of the Treaties. As already pointed out, therefore, this communication of petitions was intended purely for purposes, of information. According to the procedure no win force (Resolution of June 27th, 1921) petitions are communicated to Members of the Council either immediately, if the Government concerned declares that it does not wish to submit any observations on the petition, or at the end of the period of three weeks, if the Government concerned has not replied to the communication transmitting the petition to it, or, if the Government concerned says that it intends to present observations, as soon as these reach the Secretariat (1). As already stated, urgent petitions and petitions from Governments of Members of the League are communicated simultaneously

(1) Another possibility is that the Goverent concerned might state its intention to submit observations, but might not send them within two months; in such a case however, it would doubtless ask for an extension of the time-limit.

to the Members of the Council and the Government concerned. At the time when M. Tittoni's report was adopted by the Council the communication of a petition to Members of the Council meant that it would also be communicated to all the Members of the League, since, as explained in the report, it was the settled practice of the Secretary-General that every document communicated to the Members of the Council for information should also be sent to all Members of the League. As, however, this practice gave rise to objections on the part of certain Governments which were signatories to Minorities Treaties (1); the Council, in its Resolution of September 5th, 1923, decided that the communication of petitions and of observations (should there be any) by the Government concerned should be restricted to the Members of the Council, but that communication could be made to other Members of the League or to the general public at the request of the Governments concerned or by virtue of a resolution to that effect passed by the Council.

The restriction which the Council introduced on September 5th, 1923, gave rise to a discussion by the Sixth Committee of the Fourth Assembly (meeting of September 25th, 1923), as a result of which the Assembly, on September 26th, adopted a resolution confirming the Council's resolution of September 5th, but adding that "by virtue of paragraph v of the Assembly Resolution dated September 21st, 1922 (2), the Government of any Member of the League can request the Secretariat to communicate to it any petitions (together with the observa-

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(1) This question was dealt with by the Polish and Czechoslovak Governments, ...by the former in its notes of January 16th and August 22 nd, 1923, and by the latter in its note of April 5th, 1923. These notes were summarised in the report submitted to the Council on September 5th, 1923, by M. de Rio Branco (Brazil). (See Official Journal, November 1923, page 1426).

(2) Paragraph V reads as follows : "The Secretariat of the League which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to racial, linguistic or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire".

tions of the Government concerned) which have been communicated to the Council".

4. THE MINORITIES COMMITTEE (1)

The Council introduced into its procedure provisions whereby petitions, when once communicated to the Members of the Council in ordinary cases together with the observations of the Government concerned would be carefully considered by them. The object of this examination is to enable the Members of the Council to decide whether they should or should not bring the subject of the petition to the Council's notice as constituting an infraction or danger of infraction of the Treaties. With this object the Council decided in its resolution of October 25th, 1920, that with a view to assisting its Members in the exercise of their rights and duties in the matter it was desirable that the President of the Council and two Members appointed by him in each case should proceed to consider any petition or communication with regard to an infraction or danger of infraction of the clauses of the Minorities Treaties. There was thus instituted what came to be commonly known as the "Committee of Three" or "Minorities Committee", which has become one of the normal organisations of the League in the matter of the protection of minorities.

This Committee was formed essentially in the interest of the minorities themselves, in order to enable them to appeal direct to the League. On this subject the Supplementary Report to the Sixth Assembly on the work of the Council contains the following passage : "(By the creation of the Minorities Committee) the Council has... placed at the disposal

(1) For all matters relating to the Minorities Committee see Supplementary Report to the Sixth Committee on the work of the Council and of the Secretariat (A. 7 (*a*) 1925, pages 17-20).

of the minorities a special body which enables them to state their claims without infringing in any way either the letter or spirit of the Treaties (1)".

(a) *Composition of the Committee.*—A Minorities Committee is formed to deal with each petition. Until June 10th, 1925, these Minorities Committees were composed of the Acting President of the Council at the time when the petition and the observations of the Government concerned were circulated to the Members of the Council, and two other Members chosen by the President from among any of his colleagues. On June 10th, 1925, the Council adopted a resolution confirming, as regards the composition of these Committees, certain rules which were already applied in practice and were designed to ensure that the Committees would be independant and impartial. According to this Council resolution the Members of a Minorities Committee cannot include either the representative of the State to which the persons belonging to the minority in question are subject, or the representative of a neighbouring State or of a State a majority of whose population belong from the ethnical point of view to the same people as the persons who are members of the minority in question. If the Acting President of the Council himself comes under any of these three categories, recourse will be had to the Member of the Council who was President before him and who is not in the same position.

(b) *The Committee's Method of Work.* — The above-mentioned Supplementary Report to the Sixth Assembly gives the following particulars as regards the working of the Minorities Committee :

> "After the communication of the petition to the Council, with the observations, if any, of the interested Government, the Director of the Minorities Section

(1) Supplementary Report to the Sixth Assembly (A. 7. (*a*) 1925), page 20.

addresses a letter, accompanied by a copy of the document in question, to the Acting President of the Council, reminding him that it is his duty to appoint two of his colleagues in order to proceed without delay to an examination of the document. As soon as the President has sent his reply, the Director of the Minorities Section gets into touch with the two other members of the Council.

"The Minorities Section, in some cases in collaboration with the Legal Section, prepares for the use of the three members of the Committee a written statement on the questions of fact and law raised by the observations of the interested Government. Further, the Minorities Section is at the disposal of the members of the Committee and of the other members of the Council to procure for them any supplementary information which they may wish to receive.

"The meetings of the Minorities Committee, or more correctly of the various minorities committees, which are simultaneously at work, generally take place during the sessions of the Council. Of late, some meetings have also taken place between the sessions of the Council owing to the difficulty of finding in all cases during the sessions of the Council the time necessary for the discussion of these matters, which are sometimes extremely detailed and prolonged, and which always have a delicate side to them and require the most conscientious preparation both by the Secretariat and by the members of the Council.

"The examination of a case by the Minorities Committee is not, of course, restricted to the formal meetings of the Committee. It is the duty of each member of the Committee, as well as of the Secretariat, to proceed to this examination without delay after the communication to the Council of the document relating to

the case. The Secretariat begins an examination of the case without waiting for the distribution of this document. The discussion is accordingly, from the first meeting of the three members of the Committee, except perhaps in cases of extreme urgency, based on a very considerable amount of preparatory work.

"The meetings of the Committee are held in private, and no formal Minutes are kept. Each Committee is free to adopt its own procedure.

" It results from the object of the work undertaken by a Minorities Committee that its members are free to form the best opinion they can of all the factors in the case which they are asked to examine. They may take into consideration the greater or less importance of the case, and its more or less general significance. They may take into account the attitude more or less conciliatory of the interested Government towards the requests of the minority as well as the attitude more or less loyal of the persons belonging to the minority. They may form the opinion, in a particular case, that the petitioner should have resorted to the administrative or judicial authorities of the country before addressing the League of Nations. In the Minorities Committees all these factors are continually discussed and taken into consideration.

« The members of the Committee may, moreover, enter into correspondence with the interested Government with a view to removing doubts or misunderstandings or making friendly suggestions to the Government to induce it to modify its attitude on a point which, failing such a solution, would appear to the members of the Committee to be a case which should be brought to the attention of the Council. Before deciding whether it should or should not draw the attention of the Council to a matter which is the subject of a petition

the members of a Committee have in many cases asked the interested Government for supplementary information either in general terms or by putting definite questions. In some cases, such requests have been accompanied by other suggestions, as for, example, that the interested Government should postpone taking any steps which might have the effect of creating a *fait accompli* before the Committee was in a position to take a decision on the question of substance.

"The members of the Committee have, in certain cases, made personal representations to the representative of the interested Government, with the object of drawing friendly attention to the advisability of putting and end to the difficulties with which the minority is concerned. In the majority of cases the Committee addresses the Government in question through the Director of the Minorities Section of the Secretariat, either by writing or verbally, either formally or informally.

"The Committee often does not reach a final decision, even after having received all the supplementary information which it may desire. The case may be regarded rather as a link in a long chain than as an independent affair, and the members of the Committee sometimes consider that such a case, although of secondary importance in itself, may be of a character to be brought before the Council, if other similar cases should arise. The Committee, in these circumstances, invites the Minorities Section to follow the case for a certain period of time, and to notify it if there should arise any fact which would appear to justify a further discussion between its members".

(c) *Object of the Committee's examination.* — In its Resolution of September 5th, 1923, the Council clearly specified

that the consideration by the Committee of petitions and the observations of the Governments concerned is intended solely to determine whether one or more Members of the Council should draw the Council's attention to an infraction or danger of infraction of any of the clauses for the protection of minorities. As the Council also stated in the same Resolution, the fact that the Committee is considering a petition or observation in no way affects the right of any Member of the Council not represented on the Committee to draw the Council's attention to an infraction or danger of infraction of those clauses.

It will be clear from what has been said above regarding the working of the Minorities Committee what an important part this Committee plays as a means of conciliation and pacification in this difficult and delicate problem. The flexibility of its procedure enables its members to take into account the special circumstances of each case. In short, the work of the Minorities Committee has enabled full effect to be given to a Resolution which was adopted by the Assembly at its Third Session (1922) with a view to defining the League's methods in the matter of the protection of minorities. "While in cases of grave infraction of the Minorities Treaties it is necessary that the Council should retain its full power of direct action", so runs the Resolution of 1922, "the Assembly recognises that in ordinary circumstances the League can best promote good relations between the various signatory Governments and persons belonging to racial, religious or linguistic minorities placed under their sovereignty by benevolent and informal communications with those Governments".

CHAPTER IV

WORK OF THE COUNCIL IN REGARD TO THE PROTECTION OF MINORITIES

A brief account of the various questions which the Council has had to consider in regard to the protection of minorities in certain countries will be found in the present Chapter. The numerous cases examined by the Committees of the Council constituted under the resolution of October 25th, 1920 (see Chapter III), not placed on the Council agenda, are not dealt with in this statement.

Greek Minorities in Bulgaria and Bulgarian Minorities in Greece

At the Council meeting of September 29th, 1924, the representatives of Bulgaria and Greece submitted proposals concerning a scheme, which they had prepared in common, for securing the protection of the Greek minority in Bulgaria and the Bulgarian minority in Greece, without in any way interfering with the procedure established by the Council of the League.

The object of these proposals was to ensure equitable treatment for persons belonging to either of these minorities, in conformity with the Treaty of Neuilly in the case of Bulgaria, and the Greek Minorities Treaty in the case of Greece; they were embodied in two separate but identical protocols, one for Bulgaria and the other for Greece. Under the terms of these protocols, the two members of the Mixed Greco-Bulga-

rian Commission for Reciprocal Emigration (1) appointed by the Council were instructed — as special representatives of the League, and in an advisory capacity — to assist the Bulgarian and Greek Governments in their efforts to secure equitable treatment in conformity with the treaties for members of the Greek minority in Bulgaria and the Bulgarian minority in Greece. The two protocols defined the manner in which these League representatives could take action : they might tender advice to the two Governments on the speedy application of the treaties; they might ascertain, by enquiries on the spot, the requirements of members of minorities, particularly in educational and religious matters; they were to be free to collect information and receive petitions; they might also give their collective opinion as to the manner in which a matter might be settled in conformity with the treaties, having regard to the judicial or administrative channels open to petitioners in Bulgaria and in Greece.

The Council accepted these proposals, and the two protocols were signed by the representatives of Greece and Bulgaria, by the President of the Council, and by the Secretary-General of the League of Nations.

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Subsequently the Greek National Assembly unanimously

(1) On November 27th, 1919, a convention was concluded between Greece and Bulgaria in application of Article 56 of the Treaty of Neuilly-sur-Seine. It was the aim of this convention to regulate and encourage the reciprocal and voluntary emigration of racial, religious and linguistic minorities between Greece and Bulgaria, so that Greeks living in Bulgaria might emigrate to Greece and Bulgarians living in Greece might emigrate to Bulgaria. Under the terms of this convention a mixed Commission of four members was set up, one appointed by the Greek Government, one by the Bulgarian Government, and two by the Council of the League of Nations (a Belgian — who subsequently resigned and was replaced by a Swiss — and a New-Zealander). It is the general duty of this Commission to supervise emigration. It has also to liquidate the property of emigrants and immigrants. From the States concerned it has received the funds needed for the encouragement of emigration, and it advances to emigrants the value of their immovable property. This Commission has been at work since December 18th, 1920

rejected the protocol drawn up and signed on September 29th, 1924. At the request of the Greek Government the Council then again took up the question of the protection of the Bulgarian minority in Greece. While expressing regret that it had been led, in the person of its President, into signing a document which it might legitimately regard as a contract between itself and the Greek Government, the Council stated that it did not wish to impose on Greece any obligations other than those already defined in the Treaty; at the same time it directed the Greek Government's attention to the undertakings and obligations arising under this Treaty, which the Government had duly signed and ratified. The Council also sent to the Greek Government a questionnaire on the following points :

(1) What action has been taken by the Greek Government, since September 29th, 1924, in execution of the stipulations of the Minorities Treaty?

(2) If the Greek Government has not yet been able completely to execute the stipulations of the Treaty, what is its programme of future action?

(3) What, in the opinion of the Greek Government, are the needs of the Slav-speaking minority in matters of education and public worship, and what special measures has the Greek Government taken (or does it propose to take) to satisfy those needs?

The Greek representative assured the Council that the Greek Government intended faithfully to honour every obligation incurred by it under the Minorities Treaty. He observed that even before the coming into force of this Treaty, the Greek Government had carried out its provisions in respect of the minorities concerned; and he expressed his conviction that the Greek Government's reply to the Ques-

tionnaire would prove entirely satisfactory from the Council's point of view.

Three months later, at its meeting on June 10th, 1925, the Council noted the Greek Government's reply to the Questionnaire, and certain statements made at that meeting by the Greek representative. In its reply, the Greek Government declared that it would always devote particular care to the application of the Minorities Treaty, and would take all legislative or other steps which experience might show to be necessary in addition to the measures already adopted. As regarded the religious and educational needs of the Slav-speaking minority the Greek Government would consider in a friendly spirit any request which that minority might submit to it concerning the opening or management of schools where teaching should be given in the minority language. It would similarly consider any request for the use of a minority language in church, although the Slav-speaking minority were, like the rest of the population, members of the Orthodox Church.

The Greek representative also informed the Council of the steps which the Greek Government had taken, or was about to take, to carry out its obligations from the beginning of the school year. He announced that the budget would include a credit for assisting communities which desired to establish schools for the Slav-speaking population in Greece, that a programme was about to be prepared which would facilitate teaching in the languages of Slav-speaking populations, that where there were large Slav communities steps would be taken to engage an adequate teaching staff, and that school textbooks would be prepared and printed for the purpose, at the expense of the Greek Government. In the matter of religion, the Greek Government would extend to New Greece the provisions which had hitherto only been in force in Old Greece, whereby the various communities might elect their own parish priests.

The Council decided that the Greek Government's letter, taken in conjunction with the statements of the Greek representative, was satisfactory, and showed that the Greek Government realised its obligations and intended to honour them.

2. Moslem Minorities of Albanian origin in Greece (1)

In a letter dated August 11th, 1924, the Albanian Government enquired of the Council whether the Greek Government was faithfully fulfilling the undertaking it had given at the Conference of Lausanne not to include Greek Moslem citizens of Albanian origin in the compulsory exchange of populations between Greece and Turkey.

The Greek representative on the Council stated that the undertaking given at Lausanne would be faithfully carried out in its entirety by the Greek Government, but that this undertaking did not create any legal relation between the Greek and Albanian Governments. The Greek Government, he added, held that the question whether the Albanian minority in Greece was being treated in accordance with the pledges given by the Greek Government was an ordinary minorities question between the League of Nations and the Greek Government.

He further stated that his Government would be prepared to act on any suggestion that the Council might make, and that it would if necessary accept League supervision.

The Council decided to regard this matter as a question of the application of the Greek Treaty for the protection of minorities, which had come into force on August 6th, 1924. It also instructed its rapporteur to collect all necessary information, and requested the Greek Government to take steps

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(1) The question of the Turkish minority in Greece (Western Thrace) is dealt with under the question of the Greek minority in Constantinople, at the end of this chapter.

to avoid the creation of any *fait accompli* which might influence in either direction the final solution of the problem.

In December of the following year the Council invited the neutral members of the Mixed Commission for the Exchange of Greek and Turkish Populations (1) to consider themselves as mandatories of the Council for the protection of the Albanian minority in Greece. The Greek and Turkish Governments and the three neutral members of the Mixed Commission agreed to this procedure.

Subsequently the Council mandatories on several occasions reported to it on their work. On March 16th, 1926, following a communication from its mandatories, the Council noted a statement made by the Greek Government to the effect that the non-exchanged population of Chameria (Epirus) would enjoy, in law and in fact, the same treatment as other Greek citizens, and that all the exceptional measures which had been taken in respect of this population — because it had hitherto been regarded as exchangeable — would be abrogated

In June of the same year, the mandatories stated that the compulsory emigration provided for in the Lausanne Convention had practically been completed throughout the whole of Greece, and that they had everywhere withdrawn their

(1) On January 30th, 1923 there was signed at Lausanne a Convention for the compulsory exchange of Turkish nationals of the Greek Orthodox confession established in Turkish territory and Greek nationals of Moslem religion established in Greek territory, with the exception of the Greek inhabitants of Constantinople and of the islands of Imbros and Tenedos (see Article 14 of the *Treaty of Lausanne*) and the Moslem inhabitants of Western Thrace. Under this Convention there was appointed a Mixed Commission consisting of four Turkish members, four Greek members, and three members chosen by the Council of the League from among the nationals of Powers which had not taken part in the war of 1914/18. The three neutral members (a Dane, a Spaniard and a Swede) were appointed on September 17th, 1923; the Swedish member subsequently resigned and was replaced by a Norwegian.

The powers and duties of this Commission, which in certain respects are similar to those of the Mixed Greco-Bulgarian Commission for Reciprocal Emigration (see note, page 64), are set out in Article 11 et seq. of the Convention of January 30th, 1923.

local representatives. The Council then invited them to consider their mission as at an end, but to send in, for purposes of information, a final report on certain special cases which still called for a decision on the part of the Exchange Commission.

On September 16th the Council noted this final report and thanked its mandatories for the services they had rendered to the League in protecting the Moslem minority of Albanian origin in Greece.

Minorities in Upper Silesia

Since the entry into force of the Germano-Polish Convention on Upper Silesia, the Council has dealt with a number of minority questions brought before it in virtue of one or other of the articles of that Convention. Most of these questions refer to educational matters.

a) ELEMENTARY, SECONDARY AND HIGHER EDUCATIONAL ESTABLISHMENTS FOR GERMAN MINORITIES IN UPPER SILESIA

Several petitions from representatives of German minorities in Upper Silesia were transmitted to the Council at the beginning of 1924 by the Polish Government. These petitions related to the opening of German elementary, secondary and higher educational establishments. In accordance with the Convention on Upper Silesia, the President of the Mixed Commission had been requested to give his opinion on each particular case.

The Polish representative furnished to the Council at its meeting on March 13th, 1924 information showing that an elementary German school had been opened at Kopalnia Boera on March 3rd. He added that special classes for instruction in German had been opened at the public secondary

schools of Kattowice and Krolewska Huta, pending the establishment at an early date of German minority schools.

The Council took note of this communication by the Polish Government.

b) APPEAL BY M. KARL MICHALIK (German Upper Silesia).

At its meeting on March 17th, 1926, the Council dealt with an appeal against the decision taken by the administrative authorities of German Upper Silesia in respect of a claim submitted by M. Karl Michalik for compensation and for the allotment to him of a domicile at his former place of residence in German Upper Silesia.

The Council decided that for the moment it would not pronounce on the preliminary question of M. Michaliks' nationality, nor on the merits of his case, but it requested the Secretary-General to draw the petitioner's attention to certain articles in the Germano-Polish Convention on Upper Silesia which lay down the proper procedure for the solution of problems of nationality.

c) PETITION FROM THE ASSOCIATION OF POLES IN GERMANY (German Upper Silesia).

On May 26th, 1925, the Board of the Association of Poles in Germany addressed to the Council a petition with regard to the payment by the German Government of compensation in Upper Silesia for damage caused by riots, by the occupation of German territory and by acts of violence. The petitioners maintained that the German laws in question tended to injure the interests of the Polish minority, and that in practice they were alleged to have led to the systematic rejection of the

claims put forward by Poles in respect of damage sustained during the disturbances which took place at the time of the partition of Upper Silesia.

In its observations on the petition the German Government explained the legal principles on which the laws referred to were based, particularly the principle of division of responsibilities, under which it has to be considered, in each particular case, how far the claimant has himself contributed to causing the injury of which he is a victim.

The Council instructed a Committee consisting of the representatives of Brazil, Spain and Sweden to examine whether the subject should or should not again be placed on the Council's agenda.

When the Governments of the three members of the Committee ceased to be represented on the Council (September 1926), their delegates were replaced by the representatives of Great Britain, Italy and Japan. No decision was taken with regard to the inclusion of the question on the Council's agenda.

d) APPEAL BY THE "DEUTSCHER VOLKSBUND" OF POLISH SILESIA CONCERNING THE ADMISSION OF CHILDREN TO THE PRIMARY GERMAN SCHOOLS IN THE VOIVODIE OF SILESIA.

In February 1927, the *Deutscher Volksbund* forwarded to the Council of the League an appeal referring to the rejection of a number of children entered for the primary German minority schools in Polish Silesia. Being based upon the provisions of the Germano-Polish Convention on Upper Silesia, the appeal was forwarded to the Secretary-General of the League by the Polish Government, accompanied by that Government's observations.

At its meeting on March 8th, 1927, the Council, whose members had previously received all the documents on

the subject, heard a preliminary statement by its rapporteur, M. Urrutia, representative of Colombia, who recalled the main phases of the case : administrative enquiry by the Polish authorities; the conclusions of the "Volksbund" ; the opinion of the President of the Mixed Commission for Upper Silesia; and the observations of the Polish Government. The Council then requested its rapporteur to study the question with the assistance of the Netherlands and Italian representatives.

A few days later, on March 12th, the rapporteur, M. Urrutia, submitted , a draft resolution which the Council adopted. Statements were made by the German and Polish representatives.

Below are summarised the main aspects of the question as dealt with by the Council, the Council's final resolution and the statements made by the German and Polish representatives.

The entries for the German minority schools for the school year 1926/27 numbered roughly 8,650. The Polish School authorities, considering that there had been an abuse of the right of application —due either to ignorance or to pressure — ordered an administrative enquiry. The persons responsible for the education of the children had to state the mother-tongue of the children and again to declare whether they desired to enter their children for the German minority school or the Polish majority school.

As a result of the enquiry, the Polish authorities cancelled for various reasons the majority of the entries for the German minority schools. In most cases this measure was based either on the conclusion that the children entered did not belong to the German minority, or on the fact that the persons responsible for their education had not complied with the summons to attend the enquiry.

The *Deutscher Volksbund* thereupon addressed to the Polish Minorities Office a petition protesting against these measures

and demanding that the children in question should be immediately admitted to the German minority schools.

This petition was referred to the President of the Upper Silesian Mixed Commission, who gave an opinion to the effect that the institution of a general hearing of persons who had entered children for the German schools, in order to verify their statements, was not justified under the Germano-Polish Convention, and that certain entries had been wrongfully cancelled. He further stated that, in his opinion, the question whether a child should attend a minority school depended solely upon the wishes of the person legally responsible for the child's education. From the educational standpoint he considered it a mistake to send to a German school children who did not understand German. This was contrary to the interests both of the children and of the schools. This problem, the solution of which seemed desirable, could only be solved by an agreement, outside the scope of the Convention, between the competent authorities and the *Deutscher Volksbund.*

After considering the opinion given by the President of the Mixed Commission, the Voivode of Silesia stated that he saw no possibility of complying with it in full, but that he nevertheless held it his duty to accede to the legitimate claims of the German minority in Polish Upper Silesia in respect of educational facilities, and was prepared to discuss matters with the interested parties, with a view to affording them satisfaction within the limits compatible with the letter and the spirit of the Germano-Polish Convention, and with his primary duty of safeguarding the supreme interests of the State and of the population as a whole.

This statement did not satisfy the *Deutscher Volksbund.* It accordingly addressed to the Council an appeal which was forwarded and accompanied by observations by the Polish Government.

The Polish Government agreed that the Germano-Polish Convention laid down that the statements of the person le-

gally responsible for the education of a child, in respect of its language, should not be disputed. It was nevertheless of the opinion that the control of the truth of such statements was not contrary to the Convention; that the automatic application of the terms of the Convention might lead to an "abuse of right" at the expense of the child, who, not knowing the language in which the teaching took place, would be unable to make any progress with its studies, and that the enquiry conducted by the Polish authorities had shown that such control was absolutely necessary. The Polish Government added that it had no intention of introducing this procedure as a permanent system, and that it was fully prepared to consider in a sympathetic spirit any other method which would guarantee the efficacy of such control. It further observed that, according to the Germano-Polish Convention, the minority schools were intended exclusively for the minority. The Polish Government stated finally that it would be glad if the difficulties which had arisen with regard to schools in Polish Upper Silesia could be removed by means of an agreement taking into consideration, first, the needs of the minority inhabiting that territory in conformity with the provisions of the Geneva Convention, and secondly, the nesessity of getting rid of all abuses by the strict application of the principle that the sole object of the provisions for the protection of the minorities was the protection of those minorities.

The report which the Colombian representative submitted in his own name and in that of his two colleagues, contained in the form of a draft resolution an arrangement under which. the Council noted the Polish Government's statement to the effect that children had been admitted to the minority schools mother whose tongue, according to the declarations made by the persons legally responsible for their education during the enquiry held in the summer of 1926, was German.

It directed the Polish Government's attention to the great

importance of not insisting upon the measures taken by its local authorities to exclude from the minority schools children whose mother-tongue was stated at the time of the enquiry to be both German and Polish.

The Council expressed its opinion that it was inexpedient to admit to minority schools children who spoke only Polish, and instituted a system of enquiry into the concrete cases which appeared doubtful to the Polish local school authorities. The object of the enquiry will be to ascertain whether or not the child speaks the " school " language used in the minority school so that it can usefully attend that school. The enquiry will be under the supervision of the President of the Upper Silesian Mixed Commission, assisted by a Swiss national, who is an expert in educational matters.

The Council further specified that the arrangement should be regarded as an exceptional measure designed to meet a *de facto* situation not covered by the Germano-Polish Convention, and should not be interpreted as in any way modifying the provisions of that Convention.

The German representative, Dr. Stresemann, said that the resolution left the legal question open; the Convention laid down explicitly that the statements of the childrens' parents might be neither verified nor contested and, to his thinking, the President of the Mixed Commission had defined the legal situation in an absolutely accurate manner. If the German Government made no objection to the report notwithstanding the legal position, it was because, as emphasised in the resolution, the solution in the present case was to be regarded only as an exceptional measure and applicable only to an exceptional situation.

The Polish representative, M. Zaleski, stated that the Polish Government had never contested any provision of the

Geneva Convention regarding the minority schools, and that the reason why it had adopted the measures which gave rise to the request made by the representatives of the German minority in Polish Upper Silesia was solely because it found itself bound to put an end to numerous abuses which had occurred in this matter.

On behalf of the Council, the President congratulated the rapporteur, M. Urrutia, and his colleagues, the Netherlands and Italian representatives.

V. Petitions concerning the Minority Schools at Wilcza-Gorna, Laziska-Gorna and Bytkow.

In January 1927 the *Deutscher Volksbund* submitted direct to the Council, through petitions filed under Article 147 of the Germano-Polish Convention, three cases relating to the minority schools at Wilcza-Gorna, Laziska-Gorna and Bytkow.

In reply to these petitions the Polish Government declared that it had not thought fit to re-open these schools because, as the result of an enquiry carried out by the Polish authorities, it was found that almost all the requests for admission had been declared invalid on the ground that they were contrary to the provisions of the Geneva Convention.

Accordingly, the special case of these three schools was covered by the general case raised by the *Deutscher Volksbund*.

The Council, therefore, decided, on the proposal of the Committee, that the special case of the three schools should be settled by the application of the measures adopted for the solution of the general question.

Minorities in Hungary

In September 1922, as a result of petitions received from the "Joint Foreign Committee of the Jewish Board of Deputies and the Anglo-Jewish Association" and from the "Alliance Israélite Universelle" the Council of the League examined the Hungarian law No. 25 of 1920 (Numerus Clausus). This law lays down that the admission of students to the Hungarian universities and higher educational institutions must be based among other considerations on the following formula : the number of students of various races and nationalities must be proportionate to the numerical strength of those races and nationalities, and each race or nationality must be represented to the extent of at least nine-tenths of its relative numerical strength in the country.

The Council thereupon decided that the first point to determine was the manner in which the law was applied, and whether, in practice, the rights of minorities were prejudiced. The Hungarian Government supplied the Council on several occasions with statistics on this subject.

Three years later the "Joint Foreign Committee of the Jewish Board of Deputies and the Anglo-Jewish Association" forwarded to the League another petition on the same subject, with regard to which the Hungarian Government offered certain observations. In the light of the documentation thus collected, the Council, on the proposal of the Spanish, Belgian and Japanese representatives, again considered this question at its 37th session, in December 1925.

The point to be decided was whether the "Numerus Clausus" law was compatible with the principle of the equality of all Hungarian nationals, without distinction of race, language or religion, as laid down in the Treaties. The representative of the Hungarian Government informed the Council that this law was regarded by his Government

as an exceptional and transitory measure which the unusual social situation in the country had rendered necessary, and that his Government intended to amend it as soon as social conditions changed. In these circumstances the Council decided, not to consider the legal issue and to refrain, for the time being, from taking any action in the matter; merely to note the declarations of the Hungarian Government and await an early amendment of the law. Accepting these conclusions, the Hungarian representative stated that the Hungarian Government would thenceforth follow the policy outlined in the statement made by its representative to the Council.

Minorities in Lithuania

On December 11th, 1924, the Committee of the Council, composed of the representatives of Czechoslovakia, Great Britain and Spain, laid before the Council a question relating to the situation of the Polish minority in Lithuania. The question had been raised by a petition from the "Committee of Exiled Poles in Lithuania", upon which the Lithuanian Government had presented observations.

The Committee of the Council stated that it was referring the question to the Council in order to facilitate an exchange of views with the Lithuanian Government. It suggested that the Lithuanian Government might give further explanations on the following points : the use of the Polish language, the teaching of Polish, and the agrarian reform in Lithuania. In order to appreciate the importance of the petitioners' complaints on this last point, the Committee considered it desirable to obtain statistics showing how the agrarian reform had been put into practice, with special reference to expropriation without compensation, indicating the legislative provisions in virtue of which such expropriation had been effected.

The Lithuanian Government then sent further observations, and its representative also gave certain explanations to the Council on March 14th, 1925.

Having examined the information thus obtained, the Rapporteur, M. de Mello Franco (Brazil), informed the Council at its June session that certain of the petitioners' complaints (apart from those which lay outside the sphere of the international obligations assumed by the Lithuanian Government in its Declaration of May 12th, 1922) had already been satisfactorily explained, but that there remained a number of points in regard to which it would be desirable to ask the Lithuanian Government for further explanations and particulars. The main points mentioned by the Rapporteur were the following : the right of minorities to submit petitions to the League of Nations; the exclusion of minorities from Commissions of the Diet; the methods adopted in taking the general census of the population of Lithuania in 1923; the establishment of minority schools; the employment of minority languages in the press, at public meetings, in the courts, for administrative purposes, in churches and schools, in the wording of notices, inscriptions and advertisements, and in the account-books of commercial, industrial and banking institutions; the agrarian reform and its application; the penal expropriation of land without compensation; the valuation and allotment of land and forests.

On these various points the Lithuanian Government sent to the Council the following information and particulars :

The provisions regarding the participation of different parliamentary groups in Commissions of the Diet concern parliamentary minorities and not racial, linguistic or religious minorities.

A child's "own language" is determined in each case according to the parents' wishes. The decrees concerning the language to be employed in notices, inscriptions, etc., were annulled on July 23rd, 1925. The law does not in

principle forbid the use of any particular language in account-books, and it is only for fiscal purposes that the ledger, day-book and cashbook must be kept in the official language.

Forests, when expropriated, become the property of the State, which administers them and sees that the whole population, without distinction of race, may benefit by them. The fundamental principle of land allotment and expropriation in Lithuania is throughout that the first to benefit by the reform should be the agricultural workers living actually on or in the neighbourhood of the expropriated land. Minorities are allowed to take advantage of the agrarian reform. The question of mortgages and other encumbrances and liens attaching to estates taken over in pursuance of the agrarian reform law had not yet been settled by statute. A bill was, however, at present before the Diet—and had passed its second reading—by which the question would be settled in accordance with the general principles of mortgage law applying to the partition or seizure of estates encumbered with such debts.

Accordingly the Council, on September 5th, 1925, took note, in the presence of the Lithuanian delegate, of the information and particulars furnished by the Lithuanian Government. It added that it relied upon the wisdom of the Lithuanian Government, and expressed the hope that the latter would succeed in dissipating any apprehensions which might still exist among the minorities in the country, and in persuading them that the Government was firmly determined to apply the provisions of its Declaration of May 12th, 1922, relating to the protection of minorities.

Minorities in Poland

Certain questions relating to minorities in Poland—namely, the question of settlers of German race and that of the acquisition of Polish nationality—occupied the attention of the League of Nations for some years. They were first

brought before the League by a petition dated November 8th, 1921, and were not finally solved until 1924. In the course of these three years a great deal of study and discussion were devoted to the settlement of these questions. They were examined by a Committee of the Council, by a Committee of Jurists and by the Council itself; the Permanent Court of International Justice was consulted; direct negotiations on certain aspects of the nationality question took place between the German and Polish Governments on the basis of Council recommendations; an arbitral award was given; and an agreement was eventually reached between Poland and Germany.

(1) The Question of Settlers of German Race in Poland.

On November 8th, 1921, the "Deutschtumsbund" (a German association to safeguard the rights of German minorities in Poland) sent the Secretary-General of the League of Nations a telegram informing him that several thousand families of farmers of German origin had been called upon by the Polish Government to leave their farms before December 1st, 1921.

In accordance with the procedure prescribed for urgent cases, the telegram was communicated both to the Members of the Council of the League and also to the Polish representative, and the latter announced that the period of grace had been extended beyond December 1st, and that the Polish Government, for humanitarian reasons, had decided that, whatever terms of expulsion might be fixed by the competent tribunals, these expulsions would only be carried out progressively and in no case before May 1st, 1922.

On several occasions subsequently the Polish Government, at the request of the Council, agreed to postpone administrative or judicial measures which might have prejudicially

affected the normal position of the settlers referred to the in petition.

The question before the Council may be summarised as follows :

In virtue of a Prussian law of 1886, and of subsequent legislation, persons of German race had settled under contracts concluded with the Prussian Government, represented by a Settlement Commission, in territories which in 1919, under the terms of the Treaty of Peace, became part of the Polish Republic. Some of these persons, or "settlers", held their land under contracts know as *Rentengutsverträge*, by which the property was handed over to them in perpetuity in return for a fixed annual payment. Others were granted a *Pachtvertrag*, a lease concluded for a certain number of years.

In the Treaty of Versailles there is an article which lays down that the Powers to which German territory is ceded shall acquire all property and possessions situated therein belonging to the German Empire, and that the value of such acquisitions shall be credited to the German Government. Under the terms of this article such property is deemed to include *inter alia* all the property of the German Crown, Empire and States. A Polish law was passed on July 14th, 1920, whereby the name of the Polish State was automatically substituted in the land registers for those of the legal persons referred to above, among others, if the entry in the register was made later than November 11th, 1918. Any mortgage or real right registered on behalf of any of these persons since that date was regarded as cancelled in favour of the Polish State.

The Polish Government considered itself entitled by these provisions simply to expel settlers who had become Polish nationals, if it regarded their titles as invalid from its own point of view, that is to say those whose *Rentengutsvertrag* (contract) although concluded before November 11th, 1918,

had not been followed by an *Auflassung* (conveyance), a formality which was essential to complete the title to property, and also those settlers whose *Pachtvertrag* (lease), though concluded before that date, had been converted into a *Rentengutsvertrag* after that date.

A Committee of the Council, composed of representatives of Belgium, Italy and Japan, was formed to consider the matter. In view of the importance and the complexity of the political and legal questions raised, the examination of the matter called for lengthy study and discussion. The authors of the petition sent memoranda to the Committee of the Council. The Polish Government sent observations and detailed information on questions both of fact and of law; its representatives were heard more than once both by the Committee and by the Council itself.

The work of the Council Committee and the first negotiations with the Polish Government went on until September 1922. The Council then appointed a Committee of jurists to elucidate a number of points of law. This Committee, composed of the legal advisers to the British Spanish and French representatives on the Council, examined the validity of certain settlers' contracts, the question of the right of repurchase and the meaning of Article 4 of the Minorities Treaty, which deals with the acquisition of Polish nationality.

The Polish Government announced, however, that it could not accept the conclusions of the Committee of Jurists, and the Council decided, on February 3rd, 1923, to ask the Permanent Court of International Justice for an advisory opinion. According to the terms of the request which the Council sent to the Court, an opinion was asked on the questions whether the non-recognition of the above-mentioned contracts involved international obligations of the kind contemplated in the so-called Polish Minorities Treaty signed at Versailles on June 28th, 1919, and whether, there-

fore, these points came within the competence of the League of Nations as defined in that Treaty; and, should the first question be answered in the affirmative, whether the position thus adopted by the Polish Government was in conformity with its international obligations.

As the German and Polish Governments were then negotiating regarding the interpretation of Article 4 of the Minorities Treaty (acquisition of Polish nationality), the Council decided for practical reasons not to refer that question to the Court for the time being.

The Court rendered its opinion on September 10th, 1923. It concluded, firstly, that the Council was competent, and secondly, that the attitude of Poland was not in conformity with her international obligations.

On September 27th the Council noted the advisory opinion given by the Court and invited the Polish Government to communicate to it before the next session of the Council information showing what measures that Government proposed to take in order to solve the question of the settlers' position.

The Polish Government then informed the Council that it was anxious to find a practical solution "which would not be incompatible with the principles maintained by Poland and would at the same time recognise the power and authority of the League of Nations". The Council thereupon decided, in accordance with the view of a Committee composed of the representatives of Brazil, the British Empire and Italy, that the question of the settlers of German race in Poland should be regulated on the basis of the advisory opinion given by the Court, with which the Council concurred; but as it appeared impossible for practical reasons to re-establish in their properties the settlers who had already been expelled, the Council considered that these settlers should receive from the Polish Government fair compensation

for the losses which they had suffered as a result of the fact that they had not been left in undisturbed possession of their lands. It hoped that the Polish Government would be willing to formulate proposals on these bases. Negotiations were carried on between the Polish Government and the Council Committee during March, April and May 1924.

Lastly, on June 17th, the Council took note of an agreement between the Polish Government and the Committee of the Council, by which the Polish Government would pay a lump sum as compensation to the German settlers. The agreement provided that compensation amounting in all to 2,700,000 zlotys (gold francs) would be divided among 500 settlers who could show that they were of Polish nationality. It was to be increased if the number of settlers were more than 20 above the figure fixed (500), and reduced if their number did not exceed 400. Further, the apportionment of the sum set aside for compensation was to be carried out by an agent in the confidence of the Polish Government and in agreement with the settlers concerned.

2. Acquisition of Polish nationality.

The questions with which the Council had to deal in connection with the petition of the *Deutschtumsbund* included the interpretation of Article 4 of the Polish Minorities Treaty.

This article lays down that :

> "Poland admits and declares to be Polish nationals *ipso facto* and without the requirement of any formality persons of German, Austrian, Hungarian or Russian nationality who were born in the said territory of parents habitually resident there, even if at the date of the coming into force of the present Treaty they are not themselves habitually resident there."

The Polish Government considered itself entitled under this article to refuse to recognise as Polish nationals persons who were formerly German subjects if their parents were not habitually resident in territory which is now part of Poland both on the date of birth of the person concerned and on the date of the entry into force of the Minorities Treaty, namely January 10th, 1920. It regarded them as still possessing German nationality and consequently applied to them the treatment laid down for persons of non-Polish nationality, and refused them the right to benefit by the guarantees accorded by that Treaty.

This question was first examined by the Committee of the Council and the Committee of Jurists together with that of the settlers of German race. The interpretation of Article 4 of the Minorities Treaty given by the Committee of Jurists did not, however meet with the approval of the Polish Government, which stated that in its opinion that article was not one of those which were placed under the guarantee of the League of Nations.

Negotiations then took place between the German and Polish Governments, but in view of the delay in reaching a settlement the Council decided, on July 7th 1923, to ask the Permanent Court of International Justice for its opinion whether the League itself was competent to deal with the matter, and if so, whether Article 4 referred solely to the habitual residence of the parents at the date of birth of the persons concerned, or whether it also required the parents to have been habitually resident at the moment when the Treaty came into force.

The Court gave its opinion on September 15th, 1923. It concluded that the League of Nations was competent and that under the terms of Article 4 it would be sufficient if the parents were habitually resident in the ceded territory at the date of birth of the persons concerned.

On September 25th, 1923, the Council adopted the Court's opinion and invited its rapporteur to offer his good offices to the Polish Government in considering how to apply the provisions of the Treaty, and for negotiation if necessary with the German Government. On December 10th, 1923, the Polish representative submitted a memorandum proposing to enter into negotiations with the German Government (1) at Geneva in regard to Articles 3 and 4 of the Minorities Treaty, and (2), at any other place in regard to questions connected therewith. On the 14th of the same month the Council approved the Polish Government's programme.

The Geneva negotiations opened on February 12th, 1924, under the presidency of the Brazilian representative on the Council. As the other negotiations had led to no result, the Council, on March 14th, 1924, passed a resolution requesting the German and Polish Governments to continue their negotiations on all the questions at issue under the presidency of a third person who should act as mediator. If no settlement were reached by July 1st, 1924, this third person should have full power to arbitrate. The Council added that the President of the Mixed Arbitral Tribunal of Upper Silesia might undertake this duty.

The Council's resolution was approved by both parties, and negotiations were accordingly opened on April 28th, 1924 at Vienna. They continued beyond the period prescribed so that, although the period was extended by some weeks, the arbitral procedure came into operation; and they finally terminated on August 30th with the signing of a Protocol whereby both parties accepted the President's arbitral award. On September 19th, 1924, the Council passed a resolution congratulating the parties on the agreement reached which was ratified at Warsaw on February 10th, 1925. At its thirty fourth session the Council took note (June 8th, 1925) of the exchange of ratifications and approved

the clauses of the Convention in so far as they concerned the League of Nations in virtue of the Minorities Treaty.

Minorities in Roumania

I. Question of colonists of Hungarian race in the Banat and Transylvania.

At the beginning of 1925 certain farmers of Hungarian race, who were nevertheless Roumanian subjects and were settled in a number of villages in the Banat and Transylvania, addressed to the League a petition stating that they were in danger, under certain provisions of Roumanian law, of being deprived of part of their lands or expropriated with insufficient compensation and on a more comprehensive scale than other Roumanian subjects.

This question was laid before the Council at the request of the Brazilian, British and Swedish representatives, who had been appointed to examine the petition.

The point which had to be decided by the Council was whether the application to these farmers of the provisions of Article 10 of the Agrarian Law for Transylvania and of Article 2 § 1 of the Law of October 25th, 1921, was entirely in harmony with the Roumanian Minority Treaty, and in particular with the provision under which Roumanian nationals belonging to racial, religious or linguistic minorities were to enjoy the same treatment and the same guarantees in law and in fact as other Roumanian nationals.

Article 10 of the Agrarian Law lays down that :

> "Holdings of landowners who settled in the country subsequently to January 1st, 1885, shall be expropriated up to the limit of the holding fixed in each

district for the allotment of land to the categories of persons mentioned in Article 92."

The petitioners alleged that this provision constituted an exception to the general rule applying to other landholders who farmed their own land, and that it only affected persons belonging to the Hungarian minority.

Article 2 of the law of 1921 declares null and void all acts referring to State property concluded after December 1st, 1918 by the Hungarian Government or its organs in the territories transferred from Hungary to Roumania. The petitioners affirmed that their long-established property rights might be annulled without any compensation.

At its March 1925 session the Roumanian representative assured the Council that the Roumanian Government would suspend all measures altering the *status quo* in respect of the property of these farmers, until such time as the Council could give a decision regarding the substance of the case. The Council then decided to defer consideration of the matter until its next session. In the meantine the Committee of the Council went carefully into the facts with M. Titulesco. The Roumanian Government provided the Council with abundant information on all points. The Roumanian representative explained that the provision in Article 10 had been necessary because, in spite of the expropriation of all large estates, there was still not enough land in this area to satisfy the rightful claims of all the persons entitled to benefit as a result of the expropriation. He added that in the allotment of holdings formed as a result of the expropriation of large and other landowners no distinction had been made on account of the beneficiaries' nationality, that the application of Article 10 left the expropriated landowners with areas greater—in some cases much greater—than the average holding in the region, and that the expropriated owners were left in possession of their dwellings, plantations, and all farm

equipment. With regard to the law on the annulment of acts referring to property in the territories annexed to Roumania, the Roumanian representative asserted that this law in no way affected the position of landowners who had acquired their estates in proper form and could prove that they had paid their annuities to the competent authorities. He added that no annulment under the law had involved any ejection from 1918 to 1925, the year in which the petitioners laid their complaint. In particular he pointed out that a large number of landowners could be entirely deprived of their lands, houses and other buildings if the Roumanian Government chose to avail itself against them of the right of repurchase as defined in the contracts. The Roumanian Government had, however, absolutely no intention of enforcing this right so long as Article 10 of the Agrarian Law remained intact.

An examination of the statistical table furnished by the Roumanian Government showed that the number of landowners concerned was about 2,300, that the total area of the properties in question was 42,000 jugars, and that of this area there had been expropriated, or there would be expropriated, under Article 10 of the Agrarian Law, in all 24,000 jugars, or about 60 % of the total.

The Roumanian Government agreed that the case of landowners liable to the measures provided for in Article 10 of the Agrarian Law was to be regarded, in view of the geographical situation of their estates, as exceptional accordingly proposed, not indeed to amend Article 10 of the Agrarian Law, which it intended to carry out completely, but to offer the landowners affected by this law a compassionate indemnity which — though it had no relation to the value of the property expropriated —would afford material proof of the Roumanian Government's concern for their special situation. The indemnity thus offered by the Roumanian Government amounted to

700,000 gold francs, to be divided among the colonists in accordance with a plan which would be prepared in agreement with the Roumanian Government.

Considering that this practical solution of the question would better serve the interests of the landowners and would be more likely to pacify the population directly concerned, than a legal decision annulling Article 10 of the Agrarian Law, the Council accepted the Roumanian Government's proposal. Subsequently the practical arrangements for the division of the indemnity among the landowners were concluded in the form of an agreement between the Committee of the Council and the Roumanian representative, which the Council approved on December 11th, 1925.

Several slight alterations were made at a later date on the proposal of the Roumanian Government and with the approval of the Committee.

Since then the Roumanian Government has sent in several reports to the Secretary-General on the progress of the allocation of the indemnity among the landowners. This information was in each case communicated to the Members of the Council.

II. Petition of the Catholic, Reformed and Unitarian Churches of Transylvania regarding private educational establishments.

The Catholic, Reformed and Unitarian Churches of Transylvania having forwarded to the League a petition regarding private educational establishments, a Committee (consisting of the French, British and Japanese representatives on the Council) was appointed, on October 5th, 1920, to examine this petition together with the comments of the Roumanian Government.

It seems desirable to mention this question, although it has never been laid before the Council, because, at the request of the Minorities Committee and of the Roumanian representative, the Minutes of the Committee's final discussion were inserted in the *Official Journal* of the League (1), while the documents submitted by the Roumanian Government have also been published.

The petition of the Churches was concerned with a draft law on private educational establishments in Roumania. It explained, in considerable detail, the position in which the Hungarian schools in Transylvania would be placed as a result of the Roumanian Government's action.

The Committee of the Council held several meetings and heard verbal explanations by the Roumanian representative with regard to certain points. Through the Minorities Section of the Secretariat, the Committee also on several occasions submitted to the Roumanian Government certain points which, in its opinion, merited special consideration, and regarding which it desired to obtain further information.

In its observations, the Roumanian Government did not merely consider whether the draft law was in keeping with the Minorities Treaty; it also communicated the results of a very detailed enquiry, which it had carried out spontaneously, into each definite case mentioned by the authors of the petition.

The Committee held that the final text of the law, which the Roumanian Government had discussed at considerable length with representatives of the Churches and of other minorities in the country, did not contain any provision making it necessary for the Committee to lay the question before the Council or call upon that body to take immediate action.

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(1) Seventh Year, No. 6, June 1926, p. 741.

The Committee noted that the law provided for most stringent supervision on the part of the public authorities.

With regard to the very numerous individual cases set out in the petition, the Committee found, after examining the documentation submitted by the Roumanian Government, that the petitioners' statements were not, in a considerable number of cases, in keeping with the facts.

The Committee thanked the Roumanian Government for its ready coöperation in elucidating all the points raised in the petition, and expressed a sincere hope that there would be an improvement in the relations between the Roumanian Government and the minorities, and that a liberal policy on the part of the Government would create, on the part of the minorities, a genuine desire to collaborate and a sincere feeling of loyalty.

Minorities in Czechoslovakia

Ruthene Territory south of the Carpathians.

Articles 10 to 13 of the Czechoslovak Minorities Treaty provide for the organisation of the Ruthene territory to the south of the Carpathians as an autonomous unit within the Czechoslovak State, possessing the fullest measure of self-government compatible with that State's unity.

On November 29th, 1920, the Council of the League instructed the Secretary-General to collect and in due course submit to it information concerning the autonomous organisation of this territory.

The Secretary-General has on several occasions communicated to the Members of the League the information on this subject supplied by the Czechoslovak Government, for instance, in a memorandum distributed to the Members of

the League on December 18th, 1923, the Czechoslovak Government informed the Secretariat of the appointment of a Governor of Ruthene nationality for this territory, and of the result of the communal elections which took place on September 16th, 1923. Subsequently, the Czechoslovak Government informed the League that, at the parliamentary elections to the Chambers in Prague, nine deputies and four Senators representing this territory had been elected.

Minorities in Turkey

I. Greek minority in Constantinople and Turkish minority in Western Thrace.

At the extraordinary session of the Council at Brussels in October 1924, the Greek representative called attention to the position of the Greek minority in Constantinople, while the Turkish representative made certain statements regarding the situation of the Turkish minority in Western Thrace. Both added that they agreed to an enquiry being conducted by the Council of the League into the positions of these minorities.

The Council noted these statements and asked the representatives of the two Governments to send in a detailed account of the situation.

It also called upon the two Governments to refrain, pending its decision, from any action which might adversely affect the personal and material interests of these populations.

Having received information from the two Governments, the Council decided, at its meeting on March 11th, 1925, to conduct an enquiry, adopting the procedure which it had previously followed in the case of Moslems of Albanian origin in Greece. It therefore requested the neutral mem-

bers of the Mixed Commission for the Exchange of Greek and Turkish Populations to ascertain on behalf of the League of Nations whether the provisions of Article 16 of the Convention on the Exchange of Greek and Turkish Populations were being applied (1).

The representatives of the two Governments and the Chairman of the Exchange Commission, who were present at the meeting, agreed to this procedure.

Subsequently the Greek and Turkish representatives informed the Council in a joint letter, dated December 10th, 1925, that their Governments were engaged in settling the questions which had formed the subject of their previous communications; they therefore requested the Council to refrain, for the time being, from taking any further action on the lines proposed.

At its meeting on December 11th, 1925, the Council noted this letter and agreed to the suggestion made.

2. Armenian minority in Turkey.

A petition signed by an Armenian refugee in Athens regarding the restitution to Armenian refugees from Turkey

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(1) Article 16 of the Convention :

"The High Contracting Parties undertake mutually that no pressure direct or indirect shall be exercised on the populations which are to be exchanged with a view to making them leave their homes or abandon their property before the date fixed for their departure. They likewise undertake to impose on the emigrants who have left or who are to leave the country no special taxes or dues. No obstacle shall be placed in the way of the inhabitants of the districts excepted from the exchange under Article 2 exercising freely their right to remain in or return to those districts and to enjoy to the full their liberties and rights of property in Turkey and in Greece. This provision shall not be invoked as a motive for preventing the free alienation of property belonging to inhabitants of the said regions which are excepted from the exchange or the voluntary departure of those among these inhabitants who wish to leave Turkey or Greece".

of their deposits in certain foreign banks at Smyrna, and of the property they had left behind them in Turkey, was discussed at several meetings of a Committee of the Council consisting of the Spanish, Italian and Swedish representatives. The Committee asked that this question should be placed on the agenda of the Council session of December 1925.

The petition had been communicated to the Turkish Government, but up to the time when the Committee decided to lay the matter before the Council that Government had not offered any observations. On October 20th, 1925, however, it informed the League that it had already decided to raise the embargo on Armenian deposits.

At its meeting on December 14th, 1925, therefore, the Council decided to refer the matter back to the Committee. The representative of the Turkish Government, who was present at the meeting, agreed to this decision, reserving his right to explain his Government's views to the Committee, and also to the Council if the matter again came before that body.

The Committee has devoted further consideration to this matter, but has not yet decided to place it again on the Council Agenda.

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